

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of STEVEN D. GOLDSTEIN and DEPARTMENT OF TREASURY,
INTERNAL REVENUE SERVICE, New Haven, CT

*Docket No. 99-2531; Submitted on the Record;
Issued September 21, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant met his burden of proof to establish that he sustained left carpal tunnel syndrome causally related to factors of his federal employment.

On October 20, 1997 appellant, then a 51-year-old internal revenue agent, filed an occupational disease claim for carpal tunnel syndrome on the left side which he attributed to the performance of his employment duties. He did not stop work. On the reverse side of the claim form, appellant's supervisor noted that the Office of Workers' Compensation Programs had accepted appellant's claim for right carpal tunnel syndrome. The supervisor questioned the validity of the claim on the grounds that appellant was an "avid motorcyclist."

By decision dated December 22, 1997, the Office denied appellant's claim on the grounds that the medical evidence was insufficient to establish that he had a condition causally related to specific factors of employment. By letter dated January 7, 1998, he requested reconsideration of his claim. In a decision dated April 10, 1998, the Office denied modification of its December 22, 1997 decision. The Office found that the medical evidence from Dr. Marvin S. Arons, a Board-certified plastic surgeon, was insufficient to meet appellant's burden of proof as he did not provide a rationalized causation finding, indicate knowledge of appellant's motorcycle riding or explain the effect of appellant's nonemployment-related left upper extremity conditions on his carpal tunnel syndrome. By letter dated May 21, 1998, appellant again requested reconsideration, arguing that the Office erred in considering his motorcycle riding as a factor in denying his claim. By decision dated August 19, 1998, the Office denied appellant's request for reconsideration on the grounds that the evidence submitted was insufficient to warrant modification of its prior decision. The Office noted that the primary reason for the denial of appellant's claim was the lack of rationalized medical evidence.

The Board has duly reviewed the case record in the present appeal and finds that appellant did not meet his burden of proof to establish that he sustained an injury in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his claim, including that fact that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.²

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying the employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by claimant.³ The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.⁴ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant,⁵ must be one of reasonable medical certainty⁶ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁷ The mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the condition became apparent during a period of employment, nor the belief of appellant that the condition was caused by or aggravated by employment conditions is sufficient to establish causal relation.⁸

In the present case, appellant alleged that he sustained carpal tunnel syndrome due to writing, typing, carrying equipment and sorting documents in the course of his employment. The Office accepted the occurrence of the claimed employment factors but determined that appellant did not submit sufficient medical evidence to establish that he sustained an occupational injury due to these factors.

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *Jerry D. Osterman*, 46 ECAB 500 (1995); *see also Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁴ The Board has held that in certain cases, where the causal connection is so obvious, expert medical testimony may be dispensed with to establish a claim; *see Naomi A. Lilly*, 10 ECAB 560, 572-73 (1959). The instant case, however, is not a case of obvious causal connection.

⁵ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁶ *See Morris Scanlon*, 11 ECAB 384-85 (1960).

⁷ *See William E. Enright*, 31 ECAB 426, 430 (1980).

⁸ *Manuel Garcia*, 37 ECAB 767, 773 (1986); *Juanita C. Rogers*, 34 ECAB 544, 546 (1983).

In support of his claim, appellant submitted a report dated October 17, 1997 from Dr. Arons, who noted appellant's history of carpal tunnel syndrome on the right side and discussed his current complaints of finger numbness and pain in his elbow on the left side. He listed findings on physical examination of a positive Tinel's sign over the median nerve of the wrist and a Phalen's test "slightly positive to the index, long and ring fingers." Dr. Arons noted that appellant primarily complained of pain in the elbow and indicated that he could not reach a precise diagnosis at the present time. He did not reach a diagnosis or a finding regarding causation his report is of little probative value.

In a letter to the Office dated October 20, 1997, Dr. Arons stated that appellant did not want surgery on the right side for his carpal tunnel syndrome and that he now "has a problem with his left upper extremity and carpal tunnel syndrome. Apparently, he will be making a claim to you to cover the left hand as well as the right hand, which you have already accepted." Dr. Arons did not attribute appellant's left carpal tunnel syndrome to specific factors of his federal employment but instead merely noted that appellant would be filing a claim for workers' compensation. Thus, his statement is of little relevance to the issue at hand.

In a report dated November 14, 1997, Dr. Arons related that objective tests were positive for left carpal tunnel syndrome. He stated:

"...[appellant] also complained of intermittent achy pain in his left upper extremity unrelated to his carpal tunnel syndrome, in my opinion. He does have pain but no burning in the lateral epicondylar area in the extensors, in the olecranon area and in the lateral upper arm area -- actually, in the brachioradialis area. I think it is related to tennis elbow syndrome. X-rays I had taken on his last visit of October 14, 1997 were negative -- left elbow.

"[Appellant] has achiness and tenderness of the musculoskeletal basis, as I can derive, on extension and flexion of the elbow and on repetitive elbow motion. The extensor muscles are not tender but he does have acute tenderness in one area over the lateral epicondyle itself. There is no question that his problem is cumulative trauma disorder manifested by left carpal tunnel syndrome and left chronic tennis elbow syndrome."

Dr. Arons noted that appellant had no "preexistent or precursor factors to account for his problems." He further indicated:

"It is interesting to note that [appellant] is now developing Dupuytren's disease in the ulnar palm. It is not affecting his digits. His flat hand desk-top test is normal. Apparently, there is no family history of Dupuytren's disease in [appellant]."

In his report, Dr. Arons opined that appellant's pain in the left upper arm was not related to his left carpal tunnel syndrome yet attributed both conditions to cumulative trauma disorder. He also indicated that appellant was developing Dupuytren's disease. Dr. Arons, however, did not discuss the cause of appellant's cumulative trauma syndrome or Dupuytren's disease or

attribute any diagnosed condition to factors of his federal employment and thus his opinion is of little probative value.⁹

In a report dated January 2, 1998, Dr. Arons indicated that he had reviewed the Office's denial of appellant's claim. He stated:

"[Appellant] works on a computer daily; he carries on his work on a daily basis not only on his computer but also his printer -- his case records, his resource data, his books, his adding machines, his files and so forth.

"From interviewing him, as a field agent he must have all work-related resources, research material and so forth, readily available to him. He uses a pull cart. Since he has carpal tunnel syndrome in both wrists, there is no relief, so he uses his left hand to lift the materials in and out of his car on a daily basis at every audit site. At night, for security reasons, obviously he has to unload his car and reload it again the following morning. Because of that, he uses both hands to hold books, work on his computer and to carry, load and unload information pertinent to his job as an [employing establishment] agent and auditor. Therefore, it seems obvious to me that he uses both hands to do his work.

"To me, it means that we know he has carpal tunnel syndrome of the left wrist, we know he has carpal tunnel syndrome of the right wrist, and under OSHA [Occupational Safety & Health] guidelines and what is accepted now in terms of Labor Department standards, his bilateral carpal tunnel syndrome is related to his work as a tax auditor for the [employing establishment]."

Dr. Arons further noted that appellant denied "any activities such as riding dirt bikes..." and stated that, "if his right carpal tunnel syndrome was accepted as workers' compensation from November 3, 1995, how does one isolate the nonmaster side?" However, while Dr. Aron attributed appellant's carpal tunnel syndrome on left side to his employment, he did not provide adequate medical reasoning in support of his conclusion.¹⁰ Rationalized medical evidence is evidence which relates a work incident or factors of employment to a claimant's condition, with stated reasons of a physician.¹¹ Dr. Arons did not explain how the described factors of employment caused appellant's carpal tunnel syndrome other than to note that he used his hands at work and that his diagnosis met unspecified Department of Labor guidelines for an employment-related condition. Further, Dr. Arons did not address the cause of appellant's previously diagnosed left upper extremity conditions of cumulative trauma disorder and Dupuytren's disease or explain the effect, if any, of these conditions on appellant's carpal tunnel syndrome. Therefore, his report is insufficient to meet appellant's burden of proof.

⁹ *Linda I. Sprague*, 48 ECAB 386 (1997). (Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship).

¹⁰ *Carolyn F. Allen*, 47 ECAB 240 (1995). (Medical reports not containing rationale on causal relation are entitled to little probative value).

¹¹ *See Richard A. Weiss*, 47 ECAB 182 (1995).

As appellant has not submitted rationalized medical evidence to substantiate that he sustained an occupational disease due to factors of his federal employment, the Office properly denied his claim.

The decision of the Office of Workers' Compensation Programs dated August 19, 1998 is hereby affirmed.

Dated, Washington, DC
September 21, 2000

Michael J. Walsh
Chairman

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member